

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA  
RENO, NEVADA

RODNEY PETZAK, ) 3:09-CV-608-ECR-RAM  
)  
Plaintiff, ) MINUTES OF THE COURT  
)  
vs. ) DATE: November 12, 2010  
)  
STATE OF NEVADA, ex rel. )  
DEPARTMENT OF CORRECTIONS, )  
)  
Defendant. )

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PRESENT: EDWARD C. REED, JR. U. S. DISTRICT JUDGE  
Deputy Clerk: COLLEEN LARSEN Reporter: NONE APPEARING  
Counsel for Plaintiff(s) NONE APPEARING  
Counsel for Defendant(s) NONE APPEARING

MINUTE ORDER IN CHAMBERS

On February 8, 2010, we entered an Order (#22), dismissing Plaintiff's complaint and giving Plaintiff 21 days within which time to file an amended complaint. In that Order (#22), we noted:

In his opposition to the motion before the Court, Plaintiff challenges the constitutionality of Nev. Rev. Stat. § 616C.490 on the grounds that it is unconstitutional under the Equal Protection Clause of the Constitution . . . .

We will not consider this claim because it was not raised in Plaintiff's complaint. See Coleman v. Quaker Oats Co., 232 F.3d 1271, 1292-93 (9th Cir. 2000) . . . . We note, however, that even if we were to consider the claim, it would likewise be barred by the Eleventh Amendment. See Idaho v. Coeur d'Alene Tribe of Idaho, 521 U.S. 261, 311 n.10 (1997) (noting that 42 U.S.C. § 1983 does not abrogate the states' Eleventh Amendment immunity).

On February 25, 2010, Plaintiff filed the amended complaint (#24), which is the subject of the pending motion to dismiss (#25). In the amended complaint, Plaintiff asserts one claim: He alleges that Nev. Rev. Stat. § 616C.490, the statute under which Plaintiff sought and received

